

**RULES
OF
TENNESSEE HEALTH FACILITIES COMMISSION**

**CHAPTER 0720-1
CONDUCT OF BUSINESS**

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0720—1—.01 COMMUNICATIONS

- (1) All documents, information, and written communications which are required to be filed with the Tennessee Health Facilities Commission (hereinafter the “Commission”) must be received at the Commission’s business office located in Nashville, Tennessee, during normal business hours.
- (2) The filing date of any document shall be the actual date of receipt in the Commission office. In the event the last appropriate filing date falls on a Saturday, Sunday, or legal holiday, such filing must occur on the business day immediately preceding.
- (3) Such documents, information, and written communications shall not be sent by facsimile transmission. Any such documents, information, and written communications which are received by facsimile transmission will not be considered as having been “filed” with the Commission, except on the express authorization of the Executive Director, for good cause shown.

Authority: T.C.A. §§68—11—105(2) (as amended, P.C. 120, Section 3); 68—11—106(d)(5) (as amended, P.C. 120, Section 4); 4—5—202. **Administrative History:** (For history prior to October 1987, see page 1). Repeal and new rule filed September 15, 1987; effective October 30, 1987. Amendment filed November 30, 1992; effective January 28, 1993. Repeal and new rule filed November 16, 1993; effective January 30, 1994.

0720—1—.02 CONFLICTS OF INTEREST

- (1) Members. If any matter before the Commission involves any project, transaction, or relationship in which a member or their associated institution or business has a direct or a conflicting interest, the member shall make known to the Commission that interest and recuse himself/herself from the deliberation and vote, and join the general public during the proceedings
- (2) Staff. No employee of the Commission should during his/her term of employment, enter into a relationship with any party involved directly or indirectly in Commission business in such a way that a conflict could arise between the staff member’s interests and the duties or policies of the Commission. If such a relationship arises, it is the duty of the staff member to so advise the Executive Director and the Chairperson, and take such action as they prescribe.

Authority: T.C.A. §§ 68-11-105(2) (as amended, P.C. 120, Section 3); 68-11-106(d)(5) (as amended, P.C. 120, Section 4); 4-5-202. **Administrative History:** (For history prior to October 1987, see page 1). Repeal and new rule filed September 15, 1987; effective October 30, 1987. Repeal and new rule filed November 16, 1993, effective January 30, 1994.

0720—1—.03 STAFF AND COMMISSION DETERMINATIONS

- (1) Persons seeking information and/or guidance from the Commission or staff may receive such information and/or guidance by any of three methods: informal staff advice, staff determinations, or official Commission determinations.
- (2) Staff Advice. Staff members may give advice or guidance orally or in writing when requested. Such informal staff advice is merely the personal opinion of the staff member, and does not represent the position of the Commission or any member thereof. Such advice is not binding on the Commission, and creates no precedent
- (3) Staff Determinations. A staff determination may be issued in writing, and signed by the Executive Director or General Counsel. While a staff determination represents the considered position of staff, it does not necessarily represent the position of the Commission. A staff determination is not required to be officially adopted by the Commission, and creates no binding precedent on the Commission.
 - (a) When an inquiry is received which does not specifically request an official Commission determination, the Executive Director will determine whether the inquiry should be handled as a staff determination or as a Commission determination.
- (4) Commission Determinations. A Commission determination represents a formal opinion of the Commission. Commission determinations are initially analyzed and drafted by staff, and presented to the full Commission during a regularly scheduled Commission meeting. The Commission may then adopt, reject, or modify staff's recommendation.
 - (a) Written requests for Commission determinations should be received by the first business day of the month to be included on the Commission's agenda for that month. In the discretion of the Executive Director, the first inclusion of the request for determination on the Commission's agenda may be for the purpose of public notice: the request may then be placed on the agenda for the next succeeding Commission meeting for the Commission's consideration and decision. The Executive Director may waive the provisions of this subsection, and place the request for determination before the Commission for consideration on the first inclusion on the agenda.
 - (b) If the issue upon which a request for determination is based has been addressed by the Commission in prior determinations, or if the issue is otherwise not appropriate for a request for determination, staff will notify the person making the request and the request will not be placed on the Commission's agenda.

Authority: T.C.A. §§ 68—11—105 (2) (as amended, P.C. 120, Section 3); 68—11—106(d)(5) (as amended, P.C. 120, Section 4); 4—5—202. **Administrative History:** (For history prior to October 1987, see page 1). Repeal and new rule filed September 15, 1987; effective October 30, 1987. Repeal and new rule filed November 30, 1992; effective January 28, 1993. Repeal and new rule filed. November 16, 1993; effective January 30, 1994.

0720—L—.04 ACCESS TO COMMISSION RECORDS

- (1) Public Inspection. All public records of the Commission are available for inspection during normal business hours in accordance with reasonable office policies.
- (2) Copies. Persons who wish to obtain copies of records in excess of 15 pages must request such copies in writing. Copies will be furnished at a cost of \$.25 per page up to 200 pages. Copies in excess of 200 pages shall be charged a rate of \$1.00 per page: such \$1.00 per page rate shall apply to all pages requested and copied, not to only the pages exceeding 200 pages.

(Rule 0720—1—.04, Continued)

- (a) In the absence of exceptional circumstances, as approved by the Executive Director, outside copying machines shall not be used.
- (b) In no event shall anyone other than a Commission member or staff member be allowed to take original Commission records outside of the Commission's business office.
- (3) Audio Tapes. Recordings of meetings of the Commission are available for review and duplication. For each audio tape to be duplicated, the person requesting the duplication shall pay a fee of fifteen dollars (\$15.00).
- (4) Monthly Meeting Packet. Notwithstanding the copy fee schedule established in Subsection (2) of this Rule, persons desiring to receive copies of the Monthly Meeting Packet distributed to Commission Members may subscribe at the annual rate of \$1,500.00. Each Monthly Meeting Packet will include copies of the meeting Agenda, Certificate of Need application summaries, related reports of the Departments of Health and Mental Health/Mental Retardation, and reports and correspondence pertaining to agenda items as required.

Authority: T.C.A. §§ 68—11—105(2) 4—5—202 and 10—7—506. **Administrative History:** (For history prior to October, 1987, see page 1). Repeal and new rule filed September 15, 1987; effective October 30, 1987. Repeal and new rule filed November 16, 1993; effective January 30, 1994. Amendment filed August 13, 1996; effective December 27, 1996.

0720—1—.05 CONDUCTING COMMISSION MEETINGS

- (1) The Commission will hold regularly scheduled, public meetings to consider applications for certificates of need, and to conduct other business.
- (2) Meetings of the Commission will be under the direction of the Chair, or in the Chair's absence or at his/her request, the Vice-Chair or other designated member. The meetings will be conducted in accordance with accepted rules of parliamentary procedure, as determined by the Chair or acting Chair.
- (3) All motions for the approval or disapproval of certificates of need and for Commission Determinations will be determined by roll call vote. Except where otherwise provided by rule or by statute, matters other than the approval or disapproval of a certificate of need and Commission Determinations may, at the discretion of the Chair or acting Chair, be determined by voice vote.
 - (a) Any Commission member present and voting on a matter which has been determined by a voice vote may request that a roll call vote be taken. In the event such a request is made, a roll call vote will be taken. No additional debate or discussion will be allowed on the matter, unless otherwise appropriate under applicable rules of parliamentary procedure.

Authority: T.C.A. §§ 68—11—105(2) (as amended, P.C. 120, Section 3); 68—11—106(d)(5) (as amended, P.C. 120, Section 4); 4—5—202. **Administrative History:** (For history prior to October, 1987, see page 1). Repeal and new rule filed September 15, 1987; effective October 30, 1987. Repeal and new rule filed November 16, 1993; effective January 30, 1994.

0720—L—.06 BEGINNING OF REVIEW CYCLES

Review cycles shall begin on the first day of the following months: January, February, March, April, May, June, July, August, September, October, November, and December.

(Rule 0720—1—.04, Continued)

Authority: T.C.A. §§ 68—11—105(2) (as amended, P.C. 120, Section 3); 68—11—106(d)(5) (as amended, P. C. 120, Section 4); 4—5—202. **Administrative History:** (For history prior to October, 1987, see page 1). Repeal and new rule filed March 14, 1986; effective April 13, 1986. Repeal filed September 15, 1987; effective October 30, 1987. Original rule filed November 30, 1992; effective January 28, 1993. Repeal and new rule filed November 16, 1993; effective January 30, 1994.